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3 **Planning Board**

4 **Tuesday, December 12, 2023**

5 **Final Meeting Minutes** [1]
[SEP]

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7 **SESSION 1 - MEETING HOUSE, 6 p.m.**

8
9 **Members Present:**

10 Greg Meeh (Chair), John Schneider (Vice Chair), Anne Dowling, Joshua Gordon
11 (arrived at 6:10; Logan Snyder (arrived at 6:25), Rich Marcou, Kent Ruesswick
12 (Select Board representative), Hillary Nelson (alternate) and Ben Stonebraker
13 (alternate, *collected pizzas for the Board and arrived at 7 p.m.*).
14

15 **Others present:**

16 Web Stout (surveyor); Michael Tardiff, executive director and Matt Monahan,
17 senior planner, with Central New Hampshire Regional Planning Commission
18 (CNHRPC); Tyson Miller; Kevin Bragg (chair), Jeff Leidinger and Anne Emerson
19 of the Historic District Commission (HDC); Lisa Carlson; Jill McCulloch; Tim
20 Meeh; Daimon Meeh; Clifton Mathieu; Secretary Lois Scribner and Recording
21 Secretary Ray Carbone.
22

23 **Agenda**

24
25 **1. Call to Order**

26 Chair Greg Meeh opened the meeting at 6:02 p.m.
27
28

29 **2. Previous Meeting Minutes of 11/28/2023**

30 John Schneider made a motion to approve the minutes as presented; Anne
31 Downing seconded. In a voice vote, the Board unanimously approved the motion.
32 Rich Marcou recused himself because he was not present for the meeting.
33

34 **3. Alfred Nash/Web Stout extension**

35 Appearing before the Board on behalf of applicant Alfred Nash, surveyor Web
36 Stout said that Nash has been dealing with some personal matters recently and
37 has been unable to give the application his attention. As a result, he's requested
38 an extension of his application for 60 days. Rich made a motion to approve the
39 request; Kent Ruesswick seconded. In a unanimous voice vote, the Board
40 approved the motion.
41

Greg pointed out to Web Stout that the Board does have a limit on how often an application can be extended.

4. Historic District Commission Members (2 proposed zoning amendments)

Kevin Bragg, chair of the Historic District Commission (HDC), said that *the commission* has been spent time over the last two-plus years aiming to update some of its regulations, making them easier for people to understand *and utilize*. The HDC has developed two proposed amendments to the zoning ordinance; since they're for the zoning ordinance, only the Planning Board can legally present them to Town Meeting voters in March.

HDC member Jeff Leidinger explained that the first proposal is to amend section 13.2, which is currently a lengthy description of the *two historic districts in town*. *These are the Center Historic District and the Shaker Historic Overlay District, both historic districts are described using metes and bounds language and it is hard to use*. The HDC proposes *a change that will refer to the town's official zoning map*. Chair Greg pointed out that is *how the* other portions of the zoning ordinance are written.

The second proposed article would provide relief for residents with property in a historic district who might want to make an alteration to their properties *that does not require a full hearing*. Currently, any applications to the HDC *must* include a public hearing, which *can be expensive in terms of the application fee and abutter notice fees*. "Some situations don't rise to the level (where) there needs to be a *waiver*," Leidinger said. The HDC is proposing an amendment that would provide three criteria for any proposed *application*: (i) If the proposed alteration is in the spirit of the zoning ordinance; (ii) if it has no impact on abutters; and, (iii) if the project is not visible from the road. *In such circumstances*, if both the HDC Chair and its Select Board Representative agree that a hearing (and related fees) is not required, they could approve the application.

In discussion, the Board affirmed that, even if this amendment passed, the applicant would still be required to adhere to the project as presented in the application. This will prevent "mission creep," Greg said. Joshua Gordon asked if this option is allowed under state regulations. Mike Tariff of the Central New Hampshire Regional Planning Commission (CNHRPC) said his staff could *investigate* that issue.

HDC Chair Kevin said that *the commission* has asked the Selectboard to issue a statement supporting the proposed amendments, and that has happened. *Town Counsel had also seen their proposals*. He asked if the Planning Board would consider making a similar statement *of support*. Joshua made a motion that the Planning Board indicates its support for the amendments; Anne Dowling seconded.

88
89 Rich said he still *had* concerns about the condition that the HDC Chair and
90 Selectboard Representative could agree that a project would not have an impact
91 on an abutter without a public hearing. After *further* discussion, he agreed that
92 the language of the amendment and the HDC's procedures would provide
93 sufficient safeguards. In a voice vote, the Board unanimously approved the
94 motion to make a statement supporting the amendments.
95

96 *Mike Tardiff was aware that some aspects of the zoning map needed clarification*
97 *pertaining to the Shaker Overlay District and the Shaker Museum Preservation*
98 *District. Joshua noted that these would need to be cleared up to bring the*
99 *corrected map to Town Meeting. Mike Tardiff said his staff could work with Kevin*
100 *Bragg and the HDC to try to clarify the issues.*
101

102 **5. Short Term Rental Definition (re: Plan for Tomorrow/Master** 103 **Plan Review)**

104 Mike Tardiff and Matt *Monahan* of the CNHRPC presented a draft of the wording
105 for a definition of short-term rentals, which the Board requested, to be used in the
106 zoning ordinance. (This is part of the Board's ongoing efforts to simplify and
107 clarify language in sections of the zoning ordinance.) Matt explained that
108 *definition* was developed by CNHRPC staff in conjunction with the Allenstown
109 Planning Board after considerable discussion and review.
110

111 **Short-Term Rental:** *Means any transient occupancy of a dwelling unit or any*
112 *portion thereof, under a written or unwritten lease, license, or agreement, for a*
113 *term of thirty (30) days or less.*
114

115 He pointed out that the important issues are related to the period of the rental,
116 and how this definition would be used for the different types of rental
117 arrangements, i.e., Airbnb, vacations, short-term employment, etc. *He advised*
118 *keeping it simple, "just define the thing", and the key thing was the 30 days.*
119

120 Chair Greg noted that there's also a question of how many short-term rentals
121 dwellings could exist on a single piece of property. He said that, as he
122 understood it, a residence could include both an Accessory Dwelling Unit (ADU)
123 and a short-term rental; but Hillary Nelson said that the zoning ordinance forbids
124 a property from having both. Logan Snyder suggested that the issue of the
125 number of rental units could best be addressed in a different section of the
126 zoning ordinance; Joshua agreed.
127

128 After some discussion, the Board decided to allow only one short-term rental unit
129 per principal residence.
130

131 Lisa Carlson said the most important issue is not the use of the rental units but
132 the length of time. Joshua suggested that the word "transient" be replaced with a
133 limitation of 30 days or less. *After 30 days the landlord/tenant statutes would kick*

134 *in, so it has to be less than 30 days.* Tyson Miller said that a transient is not a
135 town resident, but Joshua pointed out that that is not in agreement with New
136 Hampshire's voting statutes; he also noted that a recent decision by the NH
137 Supreme Court in Portsmouth could have a bearing on how the town drafts this
138 language.

139
140 Lisa, who also serves on the ZBA, said that she's concerned about the number of
141 ADUs and other rental units in Canterbury that are not registered with the Town.
142 "We have glamping, tiny houses, cottages on wheels... They're in the woods,
143 tucked away and no one can see them," she said, adding that there are some
144 residents who appear to think that "You can just do whatever you want until you
145 get caught."

146 Matt *Monahan* of CNHRPC said that if a structure is established on a property
147 before zoning forbids its construction, it is considered "grandfathered in," so it
148 can be maintained without penalty unless some kind of major revision requires a
149 building permit. Board members discussed some kind of temporary permit for
150 short-term rentals that would require regular review by the Planning Board. There
151 is currently a requirement for a review process every five years, but perhaps that
152 period should be shortened to every two years.

153
154 Mike Tardiff asked if the Board wanted to consider whether different definitions of
155 short-term rentals would be applied to different zones. Anne said that if a
156 property owner has 40 acres, the limitation of one short-term rental per property
157 could be onerous. But other members disagreed. "Anything more (than one) and
158 you're butting up against being a boarding house," Joshua said.

159
160 After additional discussion, Mike Tardiff said that his CNHRPC staff could review
161 the minor changes that the Board has suggested for the Short-Term Rental
162 language to address any possible legal issues, particularly with regards the
163 Supreme Court *Portsmouth* decision. *Matt noted that Article 2.11 would include*
164 *"One short term rental on a parcel where a single-family home is the principal*
165 *residence."* Chair Greg asked him to return to the Board's next meeting on
166 Tuesday, Dec. 19.

167 168 **6. Adjournment**

169 With no other business to come before at this time, Chair Greg asked for a
170 motion to adjourn. Rich made the motion; Joshua seconded. In a voice vote, the
171 Board unanimously approved the motion at 7:02 p.m.

172
173 Greg said that the Board would reconvene the public meeting portion of the
174 meeting in the Town Hall immediately.

175 176 177 **SESSION 2 – Town Hall, 7 p.m.**

178 179 **Members Present:**

Greg Meeh (Chair); John Schneider (Vice Chair); Anne Dowling; Joshua Gordon; Logan Snyder; Rich Marcou; Kent Ruesswick (Select Board representative); Hillary Nelson (alternate); and Ben Stonebraker (alternate).

Others present for this portion of the meeting:

Mike Tardiff and Matt Monahan (CNHRPC); Audrey Knapp; Kathy and Sumner Dole; Mark Stevens; Lenore Howe; Tyson Miller; David and Anne Emerson; Jill McCullogh; Tim Meeh; Daimon Meeh; Reggie Clouthier; Beth McClure; Julie Dewdney; Sylvia Styles; Julie Edes; John and Joanne Michno; Charlie Comey; Clifton Mathieu; Calvin Todd; Lisa Carlson; Kevin Bragg; Donna Miller; Beth McGuinn; Felipe Salas-Ogilvie; Secretary Lois Scribner; and Recording Secretary Ray Carbone.

7. Plan for Tomorrow /Master Plan

Chair Greg welcomed the residents and said that this discussion would focus on the Plan for Tomorrow (i.e., the regular updating of the Town's Master Plan), and any related zoning amendments that could be considered by the Board for the upcoming Town Meeting voters in March. He said that the Board has appreciated the input from residents at earlier meetings *and is moving forward in response to those concerns.*

- **Accessory Dwelling Units (ADUs)**

Greg said the Board is trying to make changes that will make the portion of the zoning ordinance addressing ADUs easier for people to understand and utilize. He said that it's common knowledge that there are residents who have ADUs that are not registered with the Town and that can present *problems* related to emergency services, tax assessments, and tracking the Town's population. Greg said that it's possible that some residents have found the current rules to gain approval for ADUs to be too burdensome, since it requires a public hearing before both the Planning Board and Zoning Board of Adjustment (ZBA), and fees can be as high as \$400.

- **CUP (Conditional Use Permit) Process**

Chair Greg said that one possible solution under consideration by the Board would change the ADU approval process by instituting a simple Conditional Use Permit (CUP), which could be issued directly by the Planning Board. Matt Monahan of the CNHRPC said this would lower fee costs considerably and eliminate the need to appear before the ZBA.

Julie Edes asked why the Town should have any role in establishing ADUs. What's wrong with individual property owners having that right, *she* asked. Vice-Chair John Schneider said that approach could create problems for those who are charged with overseeing public safety (e.g., fire department), and Chair Greg said that ADUs impact the value of a property and, therefore, property tax assessments.

226 *Julie* asked why building an ADU should require a Board hearing where there
227 could be “a lot of public input.” Chair Greg expanded on the *public* safety issues,
228 noting that they could involve the distance between a structure and a neighboring
229 property or a public road. Mike Tardiff said that registering ADUs also allows for a
230 building inspector to view the property for safety issues. Matt *Monahan* said that
231 the inspection could also insure that, if an ADU is an *addition* to a primary
232 structure, the addition would be done in an architectural style like the original
233 structure. *Mark Stevens suggested that the Building Permit addresses most*
234 *issues so why not permit by right both for detached and attached ADUs.*
235

236 Hillary said that the Board has heard some discussion about whether ADUs
237 might be considered as a primary residence, but the zoning ordinance requires
238 that if an ADU is on the property, the owner must reside in either the primary
239 structure (e.g., a single-family home) or the ADU.
240

241 *Calvin Todd* asked the Board about the number of ADUs in Town that *are not*
242 *registered*. Chair Greg said that he would favor some kind of amnesty program
243 that would allow residents to move forward with registering their ADUs without
244 being penalized. “The question is, how do we bring people into compliance when
245 some of these happened before ADUs were permitted,” *he asked*. Hillary Nelson
246 said that, in the final analysis, that issue is related to enforcement, which is under
247 the authority of the Selectboard.
248

249 Julie Edes asked the Board: Since ADUs appear to be the cheapest way to add
250 affordable housing options in Canterbury, why shouldn’t property owners be
251 allowed to have more than one. Chair Greg said that the Board has discussed
252 that idea, but the Town already has some of the most liberal ADU regulations in
253 the state: most municipalities restrict them to 750 square-feet or less, but
254 Canterbury allows up to 1,000 square-feet. At this point in time, the Board just
255 wants to help the Town get a more accurate number of exactly how many ADUs
256 there are in Canterbury, i.e., how many residents and how many residences. The
257 idea is to move ahead cautiously, he said.
258

259 *Clifton Mathieu* asked *Kent Ruesswick* as the Select Board rep why ADU’s would
260 not be on the property owner’s tax card. Greg had talked to Mandy Irving, Tax
261 Assessor, about this and an amnesty could speed up the process.
262

263 *Tyson Miller* pointed out that property taxes are based on the property – the
264 number of bedrooms, baths, etc. – and not on the number (or ages) of people
265 living on the property. So, he asked, why should ADUs be taxed? Greg said that
266 there is no ADU tax. Reporting ADUs to the town helps the assessor track
267 improvements to a piece of property and keep tax assessments current.
268 Sometimes people make improvements to their property without a building permit
269 which can avoid appropriate updates to tax assessments.
270

271 Lisa Carlson said that when people live in ADUs for some period, they may be
272 sending children to local public schools without providing any significant income
273 to the Town's school costs, and she said that's unfair to other property taxpayers.
274 In addition, adding ADUs – or, in-law apartment, or other such additional dwelling
275 units – without notifying the Town means that those residences may not have
276 proper emergency egress, which is another public safety *issue*.

277
278 Chair Greg noted that with no building permit or updated assessment, there can
279 be infrastructure problems, such as unsafe electrical wiring or plumbing as well
280 as lost revenue from updated assessment. He also said that, while ADUs do
281 raise additional taxes on a piece of property, the income is typically much lower
282 than it would be for a single-family home. Joshua said that the Town could fine
283 residents who have had ADUs for some time without notifying the Town, *on a*
284 *sliding scale*, e.g., \$100 for one year, \$200 for two years, etc. The board agreed
285 that *providing carrots to encourage compliance would be a better initial approach*
286 *than penalties*

287
288
289 Rich said that the problem right now is that people who construct ADUs without
290 reporting it to the Town have no incentive for doing so.

291 Hillary said that one idea that the Board is working on is trying to change the tone
292 of communications between the Town and people who have or are interested in
293 building ADUs. To that end, the Board is planning a workshop next year to help
294 residents understand the ADU process and some of the challenges such as
295 financing and septic upgrades.

296
297 *Kevin Bragg pointed out that the number of kids in a household is not what is*
298 *assessed. Plenty of couples had more square footage than some families. All*
299 *departments in town have the same issue of enforcement. Tyson noted that*
300 *residents can protest their tax assessment, and that can lead to showing*
301 *improvements that might be disputed. Reggie Clouthier spoke about having*
302 *assessors come to his property over a period of years, some years ago, it was*
303 *very annoying because nothing had changed after they came initially.*

304
305 *Julie Edes said the town could 'use more kids'* and that it was a good thing for
306 the Town to move away from its traditional opposition to growth. She said that
307 there's room at Canterbury Elementary School for more students. "These old
308 rules may be preventing growth," she said.

309
310 Chair Greg pointed out that the Town has a building permit cap, limiting the
311 issuance of new permits to 3% or less annually, but the Town probably doesn't
312 have sufficient evidence to support this limitation if it were challenged legally,
313 because it has not kept up with its Capital Improvement Plan (CIP). To
314 encourage awareness about the importance of the CIP – which outlines the
315 Town's goals for five, six, or seven years into the future – the Board is
316 considering having it published in the annual Town Report for 2024. Logan

pointed out that the Town has not approached anything like the 3% building cap limit in many years, so there's less concern about limiting growth now than there has been in the past.

Chair Greg said that many people are concerned about development pressures in the area impacting Canterbury. When there are plans to build an apartment project in Concord that could have than 600 individual units, it *makes* sense for Canterbury to be aware of legal challenges the Town might face in the future.

Mike Tardiff mentioned that his office is working with the Board to 'clean up' the Planning Board regulations with regards to both Site Plan and Subdivision applications. Clifton Mathieu questioned the need for this. Greg noted that he has heard from residents that the regulations are hard to understand. Secretary Lois Scribner noted there are inconsistencies between the two sets of regulations, written at different times. It will be part of a public process too.

Mike Tardiff reaffirmed the Board's goal of making the land use regulations easier to understand and utilize and added that this includes "cleaning up some of the Cluster Development ordinance language."

In response to a question *from Beth McClure*, Chair Greg said that the Board is considering presenting its proposed changes to the zoning ordinance in two separate warrant articles. Once those are drafted, the Board is required to have at least one public hearing, scheduled for Jan. 18; a second one is required if needed. If the Board moves forward with one or both warrant articles, they are presented to voters at the polls at the first portion of the annual Town Meeting on the Tuesday before the public session of the Town Meeting, from 7 a.m. - 7 p.m. Documents related to the amendments will be posted beforehand in several places around town, including the Town Hall offices, the Canterbury Country Store, the Elkins Public Library and (if possible) on the Town website.

- **Revisions of Cluster Proposal** (in response to public input at previous sessions)

Chair Greg reported that the Board has received some very helpful input from residents around the idea of updating *Article 6 Cluster Subdivision* section of the zoning ordinance. A significant one would allow some *residential development in the Commercial and Industrial zones*. This kind of mixed-use zone, in areas adjacent to Interstate 93's exits 17 and 18, already contains residential dwellings, e.g., single family homes and apartments located over businesses. No major changes to the cluster regulations are being considered, Greg said, *but allowing more residential housing in those areas would make them more vibrant, safer at night, and have an additional tax benefit as residences are taxed at a higher rate.*

- **Farmhouse Conversion/Design Standard**

Another change under consideration is aimed at maintaining Canterbury's traditional rural character by providing some benefits for developers who either

convert older farmhouses into Cluster Neighborhood projects or who incorporate traditional farmhouse architectural design elements into a new project.

Jill McCulloch asked if the Board was *planning to allow cluster development* in the Agricultural zone. Chair Greg said that he's heard *some concerns and objections* from other residents about this. He said that when the Agricultural zone was first proposed, there was a desire in Town to preserve large tracts of land to maintain the Town's rural character. As most of the large tracts of land in town are in the Agricultural zone it seems logical to allow Cluster Neighborhood in the Agricultural zone to protect these large tracts as greenspace with public access.

Mike Tardiff explained, a Cluster Neighborhood in a rural area could encourage a developer to concentrate buildings in one area of the property, thus leaving a larger tract of land undisturbed; and if the developer agrees to comply with the farmhouse design proposal, the Planning Board would have the option of allowing a small increase in the number of dwellings on the property, e.g. one or two more units. Developers might *choose* other options to gain more units, e.g., increasing access to local trails or improving the open space.

Hillary said that the Town's existing cluster ordinance allows for such projects in residential and rural zones, and the Board's work has been focused on clarifying that language.

The board has decided NOT to propose adding Cluster Neighborhoods to the Agricultural zone *at this time*.

"This is about protecting large open spaces for public access" Chair Greg said of "We want to be proactive so that when development comes to Town, we can encourage it to happen in way that works for our community."

Lisa said that a good example of how these ideas can work is currently seen in the big yellow house on Morrill Road. Once a single-family home, it now has several dwellings and a large tract of protected open land behind it.

"We don't have a good structure in the cluster Ordinance for really protecting the greenspace land now," Chair Greg said, "So, it's a good idea to look carefully at this and go slowly."

Clifton Mathieu asked *why change anything in the ordinance*. He suggested just keeping Canterbury small and letting the rest of the world go round outside it. He also noted that his question and the response from former Deputy Fire Chief Scott Doherty from the October 24 meeting had not been reported in the Minutes. (For the record, Scott Doherty had agreed that if there were, say, 30 extra houses added, that would certainly have an "impact" on town services. The Board has been appreciative of Scott's opinions and experience on many occasions when he was a board member and since). Clifton suggested reducing the building permit from 3% to 1%. Logan Snyder responded that the town is currently operating at 1% already, not coming close to the 3% limit. Previous Planning Board Chair, Tyson Miller noted that he believes that the State does not allow a cap below 3%

Rich said that with development in Concord apparently about to move forward aggressively, it's a good idea to look ahead and plan, rather than wait until the Town is forced into reaction mode.

Chair Greg said that the Town has developed some innovative land use controls, but without a CIP in place, it might not be able to legally defend those controls. *Joshua Gordon responded to Clifton Mathieu noting he shared his concerns having seen one example of clear cutting in town. Cluster building was one way to keep back lands and have houses by the roads. Tyson Miller also spoke about the goal of cluster development and said the main problems inhibiting growth like that were to do with septic and road development, both being very expensive.*

Clifton conceded he was old fashioned and did not like change.

"You can't stop people from building on their land," Logan explained. "We want to develop in ways that are least objectionable to the neighbors and whole town."

Calvin Todd asked about roads, and Greg said there were no plans to take on any additional town roads. Any new roads would be private and have deeded maintenance. Mike Tardiff noted that in the past Impact Fees have been notoriously difficult to manage. Joshua added that the Board is concerned that any future cluster development must have a homeowner's type organization for assessing people in order to maintain the roads.

Chair Greg said that another issue that could be included among the Board's proposed changes would be to eliminate the requirement that roads built in Cluster Neighborhoods must be to the Town's specifications for Class VI roads. There are many public roads in Canterbury that are not up to Class VI specifications, he said. In fact, a Class VI standard road would look uncommonly large and out-of-place in much of the Town. (A change might be to adopt a less rigorous standard for roads of under a certain length with a small number of homes. which is both safe (emergency access) and in character with the neighborhood.)

9. Adjournment

As the discussions drew to a close, Tyson thanked the *Chair and* Planning Board members for their hard work in recent months. The audience gave the members a round of applause.

Without objection, Chair Meeh closed the meeting at 8:34 p.m.

Respectfully submitted, Ray Carbone, (recording secretary) with edits from Secretary Lois Scribner.